

IRRIGATION



DRAINAGE

RECLAMATION DISTRICT NO. 2068

May 12, 2010

Delta Stewardship Council

Via: email interimplan@deltacouncil.ca.gov

Reclamation District No. 2068 was established as the result of seven years of planning, water right application filings and construction; the process began in 1917 and culminated in April 1924 with a functioning water supply and flood control agency. The District is located in the northwest Delta near the City of Dixon. The following comments on the "Draft Outline of Interim Plan" are submitted on behalf of the District.

Delta Stewardship Council Delta Plan Recommendations

Delta legislation and the proposed actions of the Bay-Delta Conservation Plan (BDCP) will result in significant, permanent and potentially on-going changes to the landscape and economy in the northwestern Delta. These changes are proposed to be imposed on lands and agencies in this region without any proportionality to causes of the problems being addressed. The program impacts are substantial and disproportionate and fail to include assurances and protections for Delta locals.

Recognizing that the State Legislature and Administration largely failed to consider or include the Delta interests in crafting the recent legislative package, it did, however, vest a great deal of authority in the Delta Sustainability Council (DSC) by way of the mandate to produce a Delta Plan. It is our expectation that the DSC will exercise such authority to produce a Delta Plan that achieves the Legislature's stated goals and minimizes, to the greatest extent possible, damage to long standing water users and lands dependent on a well functioning flood control system. To that end we offer the following principles:

- **Honor Local Commitments** - It is our expectation that the North Delta Water Agency and the DSC will take all steps necessary to ensure that the terms and conditions of the 1981 Contract are adhered to in connection with the BDCP process, the DSC process and any subsequent processes, proceedings or activities undertaken by the State of California or the federal government. Any Delta solution must include guarantees that lands within NDWA will continue to receive both the quantity and quality of water guaranteed under the 1981 Contract and under other applicable laws, including but not limited to the Delta Protection

Act, Cal. Water Code §§ 12201-12204 and the area of origin laws, Cal. Water Code §§ 11460-11465.

- **Do no unmitigated harm-** Landowners and water users within BDCP Restoration Opportunity Areas should be protected from short-term and long-term “collateral damage” arising from Delta water conveyance infrastructure and habitat restoration efforts. This includes, but is not limited to, regulatory actions that may affect the right to divert (i.e. fish screen requirements) and the timing of diversions. Any Delta solution must include robust and secure “take” authorization for existing, in-Delta activities. Assurances must be flexible and open-ended, and must not shift the risk for changed conditions away from the State of California. To the extent that the implementation of new water conveyance infrastructure or habitat restoration programs results in adverse socio-economic impacts to people, businesses or communities within the northern Delta, such impacts must be fully mitigated.
- **Involve Locals-** Encourage and utilize the extensive local and regional knowledge and expertise in individuals and groups that already exist, such as Delta Protection Commission, County HCP/NCCPs, Yolo Basin Working Group. For the Delta Plan succeed and be sustainable, Delta landowners must be treated as stakeholders in the process. We encourage the Council to develop a feedback loop for addressing local concerns, which is critical to the success of biological opinion RPAs or the BDCP projects and implementation of a Delta Plan.
- **Coordinate & Integrate Flood Management** – Strongly support the proposal in your preliminary draft outline to “continue levee subvention program.” The Council needs to integrate the BDCP and Delta flood management efforts, particularly with the Central Valley Flood Protection Plan.
- **Conveyance Size & Capacity** – The Council should consider analyzing a broader range of facility designs, operations, and conveyance capacities than those currently being analyzed by the BDCP. The size of any canal, tunnel and associated intakes should be independently evaluated.
- **Recognize Legislative and BDCP Conflicts** – Legislation has established a state policy of reducing reliance on the Delta to meet future water supply needs through a statewide strategy of investing in improved regional supplies and conservation. The BDCP Notice of Intent project purpose statement (February 13, 2009) says, “to restore and protect the ability of the SWP and CVP to deliver up to full contract amounts”. This inconsistency needs to be examined in light of the available developed water supply. The Delta Plan should analyze the capacity of the system to deliver full contract amounts in light of the fact that much of the water contracted for export out of the Delta was never developed.
- **Willing Sellers** – The Delta Plan should make it clear that habitat restoration projects in the Delta done through the Delta Conservancy or the BDCP should be done only with willing seller landowners. The taking of property in the context of an HCP sets a terrible precedent for future conservation and polarizes rural communities that have been doing their part to protect listed species in the Delta, particularly if the BDCP or Delta Plan are going to rely on the Water Bond to pay

for needed habitat mitigation. It is simply inappropriate to use taxpayer dollars to take land for habitat restoration from unwilling sellers.

- **Open and Transparent** – The BDCP’s CEQA/NEPA documents are not being developed or discussed in a public, transparent process. The Council, before incorporating the BDCP into the Delta Plan, should provide a public forum to analyze a reasonable range of Delta conveyance size and design, effects on Sacramento River/San Joaquin River flood management, effects on Delta agriculture, Delta residents, public services in the Delta, potential effects of each conveyance alternative on Delta water quality, and other CEQA compliance analyses called for in SB 7X.
- **Benefit v. Burden** - The Delta alone is being asked to bear significant and disproportionate burdens including the loss of productive farm land, local taxes and assessments, increased regulatory compliance pressures and water quality impacts; however, the benefits accrue to regions outside the Delta. The Solano and Yolo County portions of the Delta are uniquely saddled with these unmitigated impacts and a disproportionate burden under the BDCP and the biological opinions. The Delta Plan needs to address and resolve these inequities.
- **Delta Mitigation & Assurances** – One of the ways to eliminate inequities of providing a “Delta Fix” is to adopt enforceable and permanently funded third party mitigations and assurances. Third party protections were provided in the San Joaquin River Settlement; these types protections should also be provided for the Delta, especially important in the ROAs, as a public component of the Delta Plan. The BDCP project cannot legitimately protect itself from legal jeopardy associated with “take” of species listed under ESA without providing the same protections for regional Delta communities where listed species are being enhanced.
- **Cost & Who Pays** – It must be recognized that there are no “beneficiaries” in the Delta; rather water users in the Delta may be harmed by BDCP actions. These water users, landowners and local governments need to be made whole. Compensation must include adequate, reliable, and permanent financing mechanisms (i.e. an endowment, annuity, or dedicated stream of revenue), especially for maintenance of habitat properties, neighboring land impacts, and for payment of all local in lieu taxes and assessments due to the local government agencies.

Thank you,

RECLAMATION DISTRICT No. 2068

signed

T. M. Hardesty, General Manager